

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 40**  
FINAL READING

Introduced by Redfield, 12; Jensen, 20; Synowiecki, 7

Read first time January 6, 2005

Committee: Revenue

A BILL

1 FOR AN ACT relating to public health and welfare; to amend sections  
2 58-703, 58-706, 58-708, 76-901, 76-903, and 77-1327,  
3 Reissue Revised Statutes of Nebraska, and sections  
4 66-1519 and 71-812, Revised Statutes Supplement, 2004; to  
5 change and eliminate provisions relating to the  
6 Affordable Housing Trust Fund, the Petroleum Release  
7 Remedial Action Cash Fund, the Behavioral Health Services  
8 Fund, and the documentary stamp tax; to harmonize  
9 provisions; to provide an operative date; to repeal the  
10 original sections; and to declare an emergency.  
11 Be it enacted by the people of the State of Nebraska,

1                   Section 1.    Section 58-703, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   58-703.   The Affordable Housing Trust Fund is created.  
4 The fund shall receive money pursuant to sections 8-1120 and 76-903  
5 and may include revenue from sources recommended by the housing  
6 advisory committee established in section 58-704, appropriations  
7 from the Legislature, grants, private contributions, repayment of  
8 loans, and all other sources, except that before appropriations  
9 from the General Fund may be used as a revenue source for the  
10 Affordable Housing Trust Fund or for administrative costs of the  
11 Department of Economic Development in administering the fund, such  
12 use must be specifically authorized by a separate legislative bill  
13 passed in a legislative session subsequent to the Ninety-fourth  
14 Legislature, Second Session, 1996. Any initial appropriation from  
15 the General Fund which is used as a revenue source for the  
16 Affordable Housing Trust Fund or for administrative costs shall be  
17 in an appropriations bill which does not contain appropriations for  
18 other programs. The department as part of its comprehensive  
19 housing affordability strategy shall administer the Affordable  
20 Housing Trust Fund.

21                  Transfers may be made from the Affordable Housing Trust  
22 Fund to the General Fund and the Behavioral Health Services Fund at  
23 the direction of the Legislature. The State Treasurer shall make  
24 transfers from the Affordable Housing Trust Fund to the General  
25 Fund according to the following schedule: (1) ~~\$1,500,000 on or~~  
26 ~~after July 1, 2004, but no later than July 10, 2004;~~ (2) \$1,500,000  
27 on or after July 1, 2005, but no later than July 10, 2005; and ~~(3)~~  
28 (2) \$1,500,000 on or after July 1, 2006, but no later than July 10,

1     2006.     The State Treasurer shall transfer \$2,000,000 from the  
2     Affordable Housing Trust Fund to the Behavioral Health Services  
3     Fund on or after July 1, 2005, but not later than July 10, 2005.

4             Sec. 2.     Section 58-706, Reissue Revised Statutes of  
5     Nebraska, is amended to read:

6             58-706.     The following activities are eligible for  
7     assistance from the Affordable Housing Trust Fund:

8             (1) New construction, rehabilitation, or acquisition of  
9     housing to assist low-income and very low-income families;

10            (2) Matching funds for new construction, rehabilitation,  
11     or acquisition of housing units to assist low-income and very  
12     low-income families;

13            (3) Technical assistance, design and finance services,  
14     and consultation for eligible nonprofit community or  
15     neighborhood-based organizations involved in the creation of  
16     affordable housing;

17            (4) Matching funds for operating costs for housing  
18     assistance groups or organizations when such grant or loan will  
19     substantially increase the recipient's ability to produce  
20     affordable housing;

21            (5) Mortgage insurance guarantees for eligible projects;

22            (6) Acquisition of housing units for the purpose of  
23     preservation of housing to assist low-income or very low-income  
24     families;

25            (7) Projects making affordable housing more accessible to  
26     families with elderly members or members who have disabilities;

27            (8) Projects providing housing in areas determined by the  
28     Department of Economic Development to be of critical importance for

1 the continued economic development and economic well-being of the  
2 community and where, as determined by the department, a shortage of  
3 affordable housing exists;

4 (9) Infrastructure projects necessary for the development  
5 of affordable housing;

6 (10) Downpayment and closing cost assistance; and

7 (11) Housing education programs developed in conjunction  
8 with affordable housing projects. The education programs must be  
9 directed toward:

10 (a) Preparing potential home buyers to purchase  
11 affordable housing and postpurchase education;

12 (b) Target audiences eligible to utilize the services of  
13 housing assistance groups or organizations; and

14 (c) Developers interested in the rehabilitation,  
15 acquisition, or construction of affordable housing. † and

16 ~~(12) Rental assistance for adults with serious mental~~  
17 ~~illness.~~

18 Sec. 3. Section 58-708, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 58-708. (1) During each calendar year in which funds are  
21 available from the Affordable Housing Trust Fund for use by the  
22 Department of Economic Development, the department shall allocate a  
23 specific amount of funds, not less than twenty-five percent, to  
24 each congressional district. Entitlement area funds allocated  
25 under this section that are not awarded to an eligible project from  
26 within the entitlement area within one year shall be made available  
27 for distribution to eligible projects elsewhere in the state. The  
28 department shall announce a grant and loan application period of at

1 least ninety days duration for all nonentitlement areas. In  
2 selecting projects to receive trust fund assistance, the department  
3 shall develop a qualified allocation plan and give first priority  
4 to financially viable projects that serve the lowest income  
5 occupants for the longest period of time. The qualified allocation  
6 plan shall:

7 (a) Set forth selection criteria to be used to determine  
8 housing priorities of the housing trust fund which are appropriate  
9 to local conditions, including the community's immediate need for  
10 affordable housing, proposed increases in home ownership, private  
11 dollars leveraged, level of local government support and  
12 participation, and repayment, in part or in whole, of financial  
13 assistance awarded by the fund; and

14 (b) Give first priority in allocating trust fund  
15 assistance among selected projects to those projects which serve  
16 the lowest income occupant and are obligated to serve qualified  
17 occupants for the longest period of time.

18 (2) The department shall fund in order of priority as  
19 many applications as will utilize available funds less actual  
20 administrative costs of the department in administering the  
21 program. In administering the program the department may contract  
22 for services or directly provide funds to other governmental  
23 entities or instrumentalities.

24 Sec. 4. Section 66-1519, Revised Statutes Supplement,  
25 2004, is amended to read:

26 66-1519. (1) There is hereby created the Petroleum  
27 Release Remedial Action Cash Fund to be administered by the  
28 department. Revenue from the following sources shall be remitted

1 to the State Treasurer for credit to the fund:

2 (a) The fees imposed by sections 66-1520 and 66-1521;

3 (b) Money paid under an agreement, stipulation,  
4 cost-recovery award under section 66-1529.02, or settlement; and

5 (c) Money received by the department in the form of  
6 gifts, grants, reimbursements, property liquidations, or  
7 appropriations from any source intended to be used for the purposes  
8 of the fund.

9 (2) Money in the fund may be spent for: (a)  
10 Reimbursement for the costs of remedial action by a responsible  
11 person or his or her designated representative and costs of  
12 remedial action undertaken by the department in response to a  
13 release first reported after July 17, 1983, and on or before June  
14 30, 2009, including reimbursement for damages caused by the  
15 department or a person acting at the department's direction while  
16 investigating or inspecting or during remedial action on property  
17 other than property on which a release or suspected release has  
18 occurred; (b) payment of any amount due from a third-party claim;  
19 (c) fee collection expenses incurred by the State Fire Marshal; (d)  
20 direct expenses incurred by the department in carrying out the  
21 Petroleum Release Remedial Action Act; (e) other costs related to  
22 fixtures and tangible personal property as provided in section  
23 66-1529.01; (f) interest payments as allowed by section 66-1524;  
24 (g) expenses incurred by the technical advisory committee created  
25 in section 81-15,189 in carrying out its duties pursuant to section  
26 81-15,190; (h) claims approved by the State Claims Board authorized  
27 under section 66-1531; (i) a grant to a city of the metropolitan  
28 class in the amount of three hundred thousand dollars, provided

1 ~~within five days after October 1, 2003 no later than September 15,~~  
2 2005, to carry out the federal Residential Lead-Based Paint Hazard  
3 Reduction Act of 1992, 42 U.S.C. 4851 et seq., as such act existed  
4 on October 1, 2003; and (j) methyl tertiary butyl ether testing, to  
5 be conducted randomly at terminals within the state for up to two  
6 years ending June 30, 2003. The amount expended on the testing  
7 shall not exceed forty thousand dollars. The testing shall be  
8 conducted by the Department of Agriculture. The department may  
9 enter into contractual arrangements for such purpose. The results  
10 of the tests shall be made available to the Department of  
11 Environmental Quality.

12 (3) Transfers may be made from the Petroleum Release  
13 Remedial Action Cash Fund to the General Fund at the direction of  
14 the Legislature. Transfers may be made from the Petroleum Release  
15 Remedial Action Cash Fund to the Water Policy Task Force Cash Fund  
16 at the direction of the Legislature. The State Treasurer shall  
17 transfer one million five hundred thousand dollars from the  
18 Petroleum Release Remedial Action Cash Fund to the Ethanol  
19 Production Incentive Cash Fund on July 1 of each of the following  
20 years: 2004 through 2011.

21 (4) Any money in the Petroleum Release Remedial Action  
22 Cash Fund available for investment shall be invested by the state  
23 investment officer pursuant to the Nebraska Capital Expansion Act  
24 and the Nebraska State Funds Investment Act.

25 Sec. 5. Section 71-812, Revised Statutes Supplement,  
26 2004, is amended to read:

27 71-812. (1) The Behavioral Health Services Fund is  
28 created. The fund shall be administered by the division and shall

1 contain cash funds appropriated by the Legislature or otherwise  
2 received by the Nebraska Health and Human Services System for the  
3 provision of behavioral health services from any other public or  
4 private source and directed by the Policy Cabinet or the  
5 Legislature for credit to the fund.

6 (2) The fund shall be used to encourage and facilitate  
7 the statewide development and provision of community-based  
8 behavioral health services, including, but not limited to, (a) the  
9 provision of grants, loans, and other assistance for such purpose  
10 and (b) reimbursement to providers of such services.

11 ~~(3)~~ (3) (a) Money transferred to the fund under section  
12 76-903 shall be used for housing-related assistance for very  
13 low-income adults with serious mental illness, except that if the  
14 division determines that all housing-related assistance obligations  
15 under this subsection have been fully satisfied, the division may  
16 distribute any excess, up to twenty percent of such money, to  
17 regional behavioral health authorities for acquisition or  
18 rehabilitation of housing to assist such persons. The division  
19 shall manage and distribute such funds based upon a formula  
20 established by the division, in consultation with regional  
21 behavioral health authorities and the Department of Health and  
22 Human Services Finance and Support, in a manner consistent with and  
23 reasonably calculated to promote the purposes of the public  
24 behavioral health system enumerated in section 71-803. The  
25 division shall contract with each regional behavioral health  
26 authority for the provision of such assistance. Each regional  
27 behavioral health authority may contract with qualifying public,  
28 private, or nonprofit entities for the provision of such



1 assistance.

2 (b) For purposes of this subsection:

3 (i) Adult with serious mental illness means a person  
4 eighteen years of age or older who has, or at any time during the  
5 immediately preceding twelve months has had, a diagnosable mental,  
6 behavioral, or emotional disorder of sufficient duration to meet  
7 diagnostic criteria identified in the most recent edition of the  
8 Diagnostic and Statistical Manual of Mental Disorders and which has  
9 resulted in functional impairment that substantially interferes  
10 with or limits one or more major life functions. Serious mental  
11 illness does not include DSM V codes, substance abuse disorders, or  
12 developmental disabilities unless such conditions exist  
13 concurrently with a diagnosable serious mental illness;

14 (ii) Housing-related assistance includes rental payments,  
15 utility payments, security and utility deposits, and other related  
16 costs and payments; and

17 (iii) Very low-income means a household income of fifty  
18 percent or less of the applicable median family income estimate as  
19 established by the United States Department of Housing and Urban  
20 Development.

21 (4) Any money in the fund available for investment shall  
22 be invested by the state investment officer pursuant to the  
23 Nebraska Capital Expansion Act and the Nebraska State Funds  
24 Investment Act.

25 Sec. 6. Section 76-901, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 76-901. There is hereby imposed a tax on the grantor  
28 executing the deed as defined in section 76-203 upon the ~~privilege~~

1 ~~of transferring~~ transfer of a beneficial interest in or legal title  
2 to real estate at the rate of ~~one dollar~~ two dollars and  
3 ~~seventy-five~~ twenty-five cents for each one thousand dollars value  
4 or fraction thereof. For purposes of sections 76-901 to 76-908,  
5 value ~~shall mean~~ means (1) in the case of any deed, not a gift, the  
6 amount of the full actual consideration thereof, paid or to be  
7 paid, including the amount of any lien or liens assumed, and (2) in  
8 the case of a gift or any deed with nominal consideration or  
9 without stated consideration, the current market value of the  
10 property transferred. Such tax shall be evidenced by stamps to be  
11 attached to the deed. All deeds purporting to transfer legal title  
12 or beneficial interest shall be presumed taxable unless it clearly  
13 appears on the face of the deed or sufficient documentary proof is  
14 presented to the register of deeds that the instrument is exempt  
15 under section 76-902.

16           Sec. 7.     Section 76-903, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           76-903. The Tax Commissioner shall design such stamps in  
19 such denominations as in his or her judgment will be the most  
20 advantageous to all persons concerned. When any deed subject to  
21 the tax imposed by section 76-901 is offered for recordation, the  
22 register of deeds shall ascertain and compute the amount of the tax  
23 due thereon and shall collect such amount as a prerequisite to  
24 acceptance of the deed for recordation. If a dispute arises  
25 concerning the taxability of the transfer, the register of deeds  
26 shall not record the deed until the disputed tax is paid. If a  
27 disputed tax has been paid, the taxpayer may file for a refund  
28 pursuant to section 76-908. The taxpayer may also seek a

1 declaratory ruling pursuant to rules and regulations adopted and  
2 promulgated by the Department of Revenue. From each ~~one dollar~~ two  
3 dollars and ~~seventy-five~~ twenty-five cents of tax collected  
4 pursuant to section 76-901, the register of deeds shall retain  
5 fifty cents to be placed in the county general fund and shall remit  
6 the balance to the State Treasurer who shall credit one dollar and  
7 twenty cents of such amount to the Affordable Housing Trust Fund,  
8 and twenty-five cents of such amount to the Homeless Shelter  
9 Assistance Trust Fund, ~~except that beginning January 1, 2002, and~~  
10 ~~ending December 31, 2003, the State Treasurer shall credit the~~  
11 ~~balance as follows: Fifty cents of such amount to the Affordable~~  
12 ~~Housing Trust Fund, twenty-five cents of such amount to the~~  
13 ~~Homeless Shelter Assistance Trust Fund, and fifty cents of such~~  
14 ~~amount to the General Fund and thirty cents of such amount to the~~  
15 Behavioral Health Services Fund.

16 Sec. 8. Section 77-1327, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 77-1327. (1) It is the intent of the Legislature that  
19 accurate and comprehensive information be developed by the Property  
20 Tax Administrator and made accessible to the taxing officials and  
21 property owners in order to ensure the uniformity and  
22 proportionality of the assessments of real property valuations in  
23 the state in accordance with law and to provide the statistical and  
24 narrative reports pursuant to section 77-5027.

25 (2) All transactions of real property for which the  
26 statement required in section 76-214 is filed shall be available  
27 for development of a sales file by the Property Tax Administrator.  
28 All transactions with stated consideration of more than one hundred

1 dollars or upon which more than ~~one dollar~~ two dollars and  
2 ~~seventy-five~~ twenty-five cents in documentary stamp taxes are paid  
3 shall be considered sales. All sales shall be deemed to be arm's  
4 length transactions unless determined to be otherwise under  
5 professionally accepted mass appraisal techniques. The Department  
6 of Property Assessment and Taxation shall not overturn a  
7 determination made by a county assessor regarding the qualification  
8 of a sale unless the department reviews the sale and determines  
9 through the review that the determination made by the county  
10 assessor is incorrect.

11 (3) The Property Tax Administrator annually shall make  
12 and issue comprehensive assessment ratio studies of the average  
13 level of assessment, the degree of assessment uniformity, and the  
14 overall compliance with assessment requirements for each major  
15 class of real property subject to the property tax in each county.  
16 The comprehensive assessment ratio studies shall be developed in  
17 compliance with professionally accepted mass appraisal techniques  
18 and shall employ such statistical analysis as deemed appropriate by  
19 the Property Tax Administrator, including measures of central  
20 tendency and dispersion. The comprehensive assessment ratio  
21 studies shall be based upon the sales file as developed in  
22 subsection (2) of this section and shall be used by the Property  
23 Tax Administrator for the analysis of the level of value and  
24 quality of assessment for purposes of section 77-5027 and by the  
25 Property Tax Administrator in establishing the adjusted valuations  
26 required by section 79-1016. Such studies may also be used by  
27 assessing officials in establishing assessed valuations.

28 (4) For purposes of determining the level of value of

1 agricultural and horticultural land subject to special valuation  
2 under sections 77-1343 to 77-1348, the Property Tax Administrator  
3 shall annually make and issue a comprehensive study developed in  
4 compliance with professionally accepted mass appraisal techniques  
5 to establish the level of value if in his or her opinion the level  
6 of value cannot be developed through the use of the comprehensive  
7 assessment ratio studies developed in subsection (3) of this  
8 section.

9           (5) The Property Tax Administrator may require assessors  
10 and other taxing officials to report data on the assessed valuation  
11 and other features of the property assessment for such periods and  
12 in such form and content as the Property Tax Administrator shall  
13 deem appropriate. The Property Tax Administrator shall so  
14 construct and maintain the system used to collect and analyze the  
15 data to enable him or her to make intracounty comparisons of  
16 assessed valuation, including school districts, as well as  
17 intercounty comparisons of assessed valuation, including school  
18 districts. The Property Tax Administrator shall include analysis  
19 of real property sales pursuant to land contracts and similar  
20 transfers at the time of execution of the contract or similar  
21 transfer.

22           Sec. 9. This act becomes operative on July 1, 2005.

23           Sec. 10. Original sections 58-703, 58-706, 58-708,  
24 76-901, 76-903, and 77-1327, Reissue Revised Statutes of Nebraska,  
25 and sections 66-1519 and 71-812, Revised Statutes Supplement, 2004,  
26 are repealed.

27           Sec. 11. Since an emergency exists, this act takes  
28 effect when passed and approved according to law.